

[Submitting counsel below]

UNITED STATES DISTRICT COURT
OF NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

**IN RE: UBER TECHNOLOGIES, INC.,
PASSENGER SEXUAL ASSAULT
LITIGATION**

This Document Relates to:

Jaylynn Dean v. Uber Techs., Inc.,
No. 23-cv-06708

No. 3:23-md-03084-CRB

**PLAINTIFF'S MOTION TO PARTIALLY
EXCLUDE THE EXPERT REBUTTAL
TESTIMONY OF LINDSAY
ORCHOWSKI, PH.D.**

Judge: Honorable Charles R. Breyer

Date: January 6, 2026

Time: 10:00 A.M. PT

Ctrm.: 6-17th Floor

**PROVISIONALLY FILED UNDER SEAL
PURSUANT TO ECF 4332**

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1 **I. INTRODUCTION**

2 Plaintiffs move to exclude, in part, the testimony of Uber’s expert, Dr. Lindsay Orchowski.
 3 Uber offers the testimony of Dr. Orchowski to rebut opinions raised by Plaintiffs’ expert, Dr.
 4 Veronique Valliere. But Dr. Orchowski’s purported rebuttal opinions are untethered to any Uber-
 5 specific facts and not responsive to the opinions submitted by Dr. Valliere.¹

6 *First*, Dr. Orchowski’s opinion regarding “[REDACTED]
 7 [REDACTED]” (Expert Rebuttal Report of Lindsay Orchowski at § IV) is irrelevant and
 8 unreliable. The opinion is based on research that is not tethered to the theories of this case and
 9 ignores the wealth of contrary data from Uber regarding [REDACTED]
 10 [REDACTED].

11 *Second*, Dr. Orchowski’s opinion that “[REDACTED]
 12 [REDACTED]” (*id.* at
 13 § V) is unreliable because it lacks foundation in data and evidence. Dr. Orchowski does not identify
 14 [REDACTED] as a basis for her opinion
 15 that [REDACTED]. This is not an issue of an incomplete record,
 16 but one where an expert considered no record at all.

17 *Third*, Dr. Orchowski’s opinions regarding causation (*see id.* at § VIII) are, in part,
 18 irrelevant. In attempting to respond to Dr. Valliere’s conclusions regarding [REDACTED]
 19 [REDACTED]
 20 [REDACTED]
 21 [REDACTED] This opinion does not respond to what was
 22 raised by Dr. Valliere—the only task Dr. Orchowski is here to do—and thus it is irrelevant.

23 Plaintiffs respectfully request that the Court exclude these opinions.

24 **II. BACKGROUND**

25 Plaintiffs’ expert, Dr. Veronique Valliere, is a licensed clinical psychologist who has
 26 worked in the field of interpersonal violence for over 30 years, studying and evaluating thousands
 27 _____

28 ¹ Plaintiffs separately move to strike, in part, Dr. Orchowski’s opinions as improper rebuttal. That motion will be filed on November 14 before Magistrate Judge Lisa Cisneros.

1 of sexual assault victims and offenders. *See* Valliere Report at 4-5; *see also id.* at App. C
 2 (Curriculum Vitae).² In the course of preparing her opinions and report, Dr. Valliere studied
 3 documentation, evidence, and depositions from Uber, including relevant investigations; requested
 4 and reviewed documents related to Uber’s policies, deposition testimony and internal documents
 5 related [REDACTED]

6 [REDACTED]
 7 [REDACTED]
 8 [REDACTED] *See*
 9 Valliere Report at 5-6; *see also id.* at App. A (Materials Considered). The Uber-specific facts
 10 supporting Dr. Valliere’s opinions are comprehensive and substantial, and Dr. Valliere reviewed
 11 these facts through the lens of decades of experience in the field of sexual and interpersonal
 12 violence. *See id.*

13 In contrast, Defendants’ rebuttal expert, Dr. Lindsay Orchowski, does not reference a single
 14 Uber-specific document. *See* Ex. A (Expert Rebuttal Report of Lindsay Orchowski dated October
 15 24, 2025) (“Orchowski Rebuttal Report”); *see also id.* at Ex. B (Materials Cited and Considered).
 16 Instead, her singular focus was to respond only to what was in Dr. Valliere’s report. *See* Ex. B
 17 (Deposition of Lindsay Orchowski dated November 11, 2025) (“Orchowski Dep.”). at 47:16-21,
 18 78:2-14, 80:13-25, 82:9-15; 82:23-83:6. While Dr. Orchowski sporadically alluded to [REDACTED]

19 [REDACTED] (*see id.* at 82:20-83:6), her testimony makes clear that
 20 [REDACTED]
 21 [REDACTED] *See id.* at 78:2-14 (
 22 [REDACTED]”); *id.*

23 at 80:13-25 (“
 24 [REDACTED]”); *id.* at 82:9-15 (“
 25 [REDACTED]”); *id.* at 82:20-83:6
 26 [REDACTED]

27
 28 ² The expert report of Veronique Valliere dated September 26, 2025 is filed as Ex. 1 to Uber’s Motion to Partially Exclude Dr. Valliere. *See* ECF 4339.

1 [REDACTED]). Despite this analytical deficiency, Dr.
2 Orchowski makes bold and unsubstantiated opinions.

3 In Section IV of her report, Dr. Orchowski opines on [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]. *See* Orchowski Rebuttal Report at 4-9. She reaches this conclusion without
7 ever considering documentation and research that Uber has to the contrary. *See id.* For example,
8 Dr. Orchowski did not consider [REDACTED]

9 [REDACTED]
10 Valliere Report at 25. Dr. Orchowski admitted that she was “
11 [REDACTED]
12 [REDACTED]. Orchowski Dep. at 170:3-
13 174:10. And, as testified to elsewhere in her deposition, Dr. Orchowski [REDACTED]
14 [REDACTED]. *See id.* at 78:2-14, 80:13-
15 25, 82:9-15, 82:20-83:6. “
16 [REDACTED].” *Id.* at 81:7-15 (emphasis added).

17 In Section V of her report, Dr. Orchowski opines that Uber [REDACTED]
18 [REDACTED]
19 ” This opinion lacks basis in any actual evidence or information as to [REDACTED]
20 [REDACTED]. *See* Orchowski Rebuttal Report at 9-10. The sum of her analysis is
21 [REDACTED]
22 [REDACTED]. *See id.*

23 In Section VIII of her report, Dr. Orchowski employs an apples-to-oranges argument,
24 invoking [REDACTED]
25 [REDACTED]. *See id.* at 12. She
26 concludes that [REDACTED]
27 [REDACTED]
28 [REDACTED]. *See id.*

1 **III. STATEMENT OF THE ISSUES TO BE DECIDED**

2 Have Defendants failed to demonstrate by a preponderance of evidence that Dr. Lindsay
3 Orchowski proffered testimony that satisfies the requirements of reliability and relevance as
4 enumerated in Federal Rule of Evidence 702?

5 **IV. LEGAL STANDARD**

6 The legal standard was set out in Plaintiffs' Omnibus *Daubert* motion. See ECF 4358.

7 **V. ARGUMENT**

8 As set forth below, several opinions by Dr. Orchowski are unreliable and irrelevant. They
9 should be excluded.

10 **A. DR. ORCHOWSKI'S [REDACTED] OPINIONS ARE**
11 **UNRELIABLE AND IRRELEVANT**

12 [REDACTED]
13 [REDACTED]
14 Valliere Report at 24. Dr. Valliere explains that "[REDACTED]"

15 [REDACTED] *Id.* In response, Dr. Orchowski opines
16 that "[REDACTED]"

17 [REDACTED]
18 (Orchowski Rebuttal Report at 3), "[REDACTED]"

19 [REDACTED]
20 (*id.* at 4), and [REDACTED] *Id.*; see also Orchowski

21 Rebuttal Report at § IV. These opinions are inadmissible because they lack fit to the facts of this
22 case and, further, are based on an analysis that excludes consideration of Uber-specific data.

23 **1. Dr. Orchowski's [REDACTED] opinions are unreliable.**

24 Dr. Orchowski opines that there are not yet "[REDACTED]"

25 [REDACTED], "without considering [REDACTED]"

26 [REDACTED]. See Orchowski Rebuttal Report at 8. In fact, Dr. Orchowski did not look at a single
27 document or deposition produced in this case outside of Dr. Valliere's report. See *id.* at Ex. B
28 (Materials Cited and Considered). This is no oversight, but rather willful blindness to evidence that

1 was highlighted in Dr. Valliere's report. Specifically, Dr. Valliere discussed [REDACTED]
 2 [REDACTED]
 3 [REDACTED]. See Valliere Report at 25-26 (citing
 4 internal Uber documents and testimony). Despite this robust discussion, Dr. Orchowski ignored the
 5 cited evidence in order to reach her conclusion. See Orchowski Rebuttal Report at § IV; *id.* at Ex.
 6 B (Materials Cited and Considered).

7 When pressed on this omission at deposition, Dr. Orchowski admitted that [REDACTED]
 8 [REDACTED] (see Orchowski Dep. at 170:3-174:10), [REDACTED]
 9 [REDACTED] (see *id.* at 78:2-14, 80:13-25, 82:9-15, 82:20-83:6).
 10 Awareness of relevant information, but failure to review and consider it is antithetical to reliable
 11 expert methodology. See *In re Incretin-Based Therapies Prods. Liab. Litig.*, 524 F. Supp. 3d 1007,
 12 1046 (S.D. Cal. 2021) (holding expert opinion was unreliable because expert did not consider all
 13 available data); see also *Gen. Elec. Co. v. Joiner*, 522 U.S. 136, 146 (1997) (explaining courts need
 14 not admit opinions "connected to existing data only by the ipse dixit of the expert. A court may
 15 conclude that there is simply too great an analytical gap between the data and the opinion
 16 proffered"); see also *Am. Booksellers Assoc., Inc. v. Barnes & Noble, Inc.*, 135 F. Supp. 2d 1031,
 17 1041-42 (N.D. Cal. 2001) (excluding expert testimony based on a model that "contains entirely too
 18 many assumptions and simplifications that are not supported by real-world evidence"). Because
 19 Dr. Orchowski's [REDACTED] opinions ignore contrary facts and data, they are unreliable
 20 and should be excluded.

21 2. Dr. Orchowski's [REDACTED] opinions are irrelevant.

22 Dr. Orchowski's opinions are irrelevant because they are decontextualized from Uber's [REDACTED]
 23 [REDACTED] and, instead, directed to tools used in other industries (not Uber). See *In*
 24 *re Bextra & Celebrex Mktg., Sales Practices, & Prods. Liab. Litig.*, 524 F. Supp. 2d 1166, 1171
 25 (N.D. Cal. 2007) (testimony must be "relevant to the task at hand, i.e., that it logically advances a
 26 material aspect of the proposing party's case") (quotations omitted). The efficacy of [REDACTED]
 27 Uber did not use has no bearing on any fact in this case (or on Dr. Valliere's opinions). Dr.
 28 Orchowski's opinions on why [REDACTED] may or may not work does not help the jury in the face of

1 actual data on [REDACTED]

2 [REDACTED]

3 Dr. Orchowski does not address [REDACTED] but instead relies on

4 [REDACTED]. See Orchowski Rebuttal Report

5 at 3-9. For example, Dr. Orchowski relies [REDACTED]

6 [REDACTED]. See *id.* Dr. Orchowski also relies on [REDACTED]

7 [REDACTED] See *id.* Dr.

8 Orchowski evidently understands that [REDACTED]

9 [REDACTED]. See *id.* at 7. Yet, she never

10 [REDACTED]. See *id.* at 3-9. Because Dr. Orchowski's

11 [REDACTED] opinions are based on irrelevant materials, they should be excluded.

13 **B. DR. ORCHOWSKI'S [REDACTED] OPINIONS ARE**
 14 **UNRELIABLE AND IRRELEVANT**

15 Dr. Valliere explains that [REDACTED]

16 [REDACTED]. See Valliere Report at 3, 34-36. In

17 response, Dr. Orchowski advances an opinion that [REDACTED]

18 [REDACTED].”

19 Orchowski Rebuttal Report at 9. This opinion (laid out in Section V of the report) should be
 20 excluded as unreliable and irrelevant.

21 *First*, the opinion is unreliable. Dr. Orchowski opines that [REDACTED]

22 [REDACTED]. See Orchowski Rebuttal Report at 9-10, *see id.*

23 at Ex. B (Materials Cited and Considered). Specifically, she concludes, [REDACTED]

24 [REDACTED]

25 [REDACTED]

26 [REDACTED]

27 [REDACTED]

28 [REDACTED]

1 [REDACTED].” *Id.* at 9.

2 It is axiomatic that an expert opinion must be based on “sufficient facts or data.” Fed. R.
3 Evid. 702(b). For “that inquiry, what matters is the evidence [the expert] actually considered and
4 the conclusions he actually drew from that evidence in the process of forming his opinion as
5 disclosed in his expert report.” *Englis v. Monsanto Co.*, 151 F.4th 1040, 1052 (9th Cir. 2025)
6 (affirming exclusion of expert testimony where the expert did not disclose any facts or data to
7 support his conclusion). Here, Dr. Orchowski disclosed no documents to support her conclusion
8 about [REDACTED]

9 [REDACTED]
10 [REDACTED] This is not a matter of an incomplete factual record, but one where she relied on no
11 record *at all*. Dr. Orchowski’s opinion that [REDACTED]
12 [REDACTED] is therefore
13 inadmissible. *See Smith v. Bell Tel. Co., Inc.*, 649 F. Supp. 2d 1073, 1096 (E.D. Cal. 2009) (expert
14 opinions are “admissible only if an expert knows of facts which enable him to express a reasonably
15 accurate conclusion”); *Shirley v. Washington State Dept. of Fish & Wildlife*, 2025 WL 1384803, at
16 *6 (W.D. Wash. May 13, 2025) (excluding expert who relied only on personal experience and
17 paucity of documents to evaluate defendant’s accommodations process).

18 *Second*, the opinion is irrelevant. Dr. Orchowski’s opinion is intended to only rebut Dr.
19 Valliere’s opinions on this issue. *See, e.g.*, Orchowski Dep. at 74:11-15 ([REDACTED]
20 [REDACTED]). But, as relevant here, Dr. Valliere’s opinion
21 was limited to [REDACTED]
22 [REDACTED]. *See, e.g.*, Valliere Report at 39-40.

23
24
25 ³ To the extent Dr. Orchowski attempts to bootstrap her opinions to sources in Dr. Valliere’s report
26 regarding [REDACTED] this is a mischaracterization.
27 [REDACTED]. *See, e.g.*,
28 Valliere Report at 39-40 [REDACTED]. Thus, her report cannot be a substitute for proper review and analysis of [REDACTED]

C. DR. ORCHOWSKI'S CAUSATION OPINIONS ARE IRRELEVANT

As noted above, in defense of her report, Dr. Orchowski has repeatedly emphasized that

. See, e.g., Orchowski Dep. at 47:16-20

"); 81:7-15 (

); *id.* at 80:13-25 (

"); see also *id.* at 82:13-15; 82:23-83:6;

144:7-17; 186:18-187:2; 334:10-12.

In Section VIII of her report, Dr. Orchowski presents opinions to rebut what she calls

" Orchowski

Rebuttal Report at 12. According to Dr. Orchowski, the foundation for this rebuttal opinion is that

" *Id.* at p. 12. Dr. Orchowski concludes, in part, that

. " *Id.* at 12. But Dr.

Valliere is not making a claim of

Specifically, Dr. Valliere opines that

Valliere Report at 1, 11; see also *id.* at 31, 39. Moreover, Dr.

Valliere grounds her opinions in

. See Valliere Report at 31.

. See

Orchowski Dep. at 297:15-299:3. Thus, Dr. Valliere does not (as Dr. Orchowski asserts) conclude that “ [REDACTED] ” Orchowski Rebuttal Report at 12. Dr. Orchowski’s opinion as to [REDACTED] is therefore unhelpful.

VI. CONCLUSION

For these reasons, Plaintiffs respectfully request that the Court exclude the above opinions of Dr. Lindsay Orchowski.

Dated: November 14, 2025

Respectfully submitted,

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Dated: November 14, 2025

By: /s/ Ellyn Hurd
Ellyn Hurd